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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **ELIZABETH HOGAN**

12 Holder of License No. 15072
For the Practice of Pharmacy
13 In the State of Arizona

Board Case No. 07-0053-PHR

**CONSENT AGREEMENT
AND ORDER FOR PROBATION**

14
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") and under A.R.S. §§ 32-1901, *et. seq.* and 41-1092.07(F)(5),
19 Elizabeth Hogan ("Respondent"), holder of Pharmacist License Number 15072 in the
20 State of Arizona, and the Board enter into this Consent Agreement and Order for
21 Probation ("Consent Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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26

1 2. Respondent understands that she has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing she could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against her.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3294 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. All admissions made by the Respondent in this Consent Agreement are
24 made solely for the final disposition of this matter, and any related administrative
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any
26

1 admissions made by Respondent in this Consent Agreement are not intended for any
2 other use, such as in the context of another regulatory agency's proceedings, or civil or
3 criminal proceedings, whether in the State of Arizona or in any other state or federal
4 court.

5 9. Respondent acknowledges and agrees that, upon signing this Consent
6 Agreement and returning this document to the Board's Executive Director, she may not
7 revoke her acceptance of the Consent Agreement or make any modifications to the
8 document regardless of whether the Consent Agreement has been signed by the
9 Executive Director. Any modification to this original document is ineffective and void
10 unless mutually agreed by the parties in writing.

11 10. Respondent understands that the Consent Agreement shall not become
12 effective unless and until adopted by the Board and signed by its Executive Director.

13 11. If a court of competent jurisdiction rules that any part of this Consent
14 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
15 shall remain in full force and effect.


16 12. Respondent understands and agrees that if the Board does not adopt this
17 Consent Agreement, she will not assert as a defense that the Board's consideration of this
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

19 13. Respondent understands that this Consent Agreement is a public record that
20 may be publicly disseminated as a formal action of the Board and may be reported as
21 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
22 Protection Data Bank.

23 14. Respondent understands that any violation of this Consent Agreement
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
25 1901.01(B)(20), -1927(A)(1).

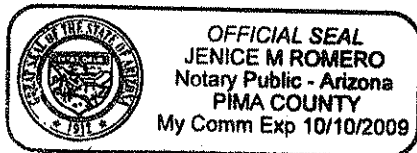
1 15. Respondent understands that this Consent Agreement constitutes
2 disciplinary action.

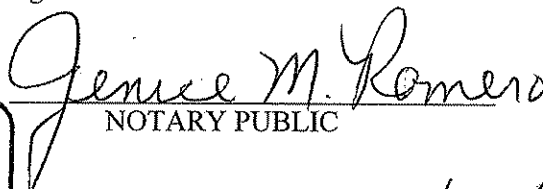
3 ACCEPTED AND AGREED BY RESPONDENT

4 
5 Elizabeth Hogan

Dated: 6/7/2007

6 Subscribed and sworn to before me in the County of Maricopa, State of Arizona, this 7TH day of
7 JUNE, 2007, by Elizabeth Hogan.




NOTARY PUBLIC

My Commission expires: 10/10/2009

11

12 Without admitting or denying, Respondent acknowledges that the Board has

13 made the following Factual Allegations and Allegations of Unprofessional Conduct:

14 **FACTUAL ALLEGATIONS**

15 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted

16 authority for licensing and regulating the practice of pharmacy in the State of Arizona.

17 2. Elizabeth Hogan ("Respondent") is the holder of license number 15072 to

18 practice as a pharmacist in the State of Arizona.

19 3. During all times relevant to these Findings, Respondent worked as a

20 pharmacist at St. Mary's Hospital pharmacy in Tucson, Arizona ("Pharmacy").

21 4. On or about December 20, 2006, the IV technician at the Pharmacy

22 witnessed Respondent in the IV room rummaging through the controlled substance

23 drawer. When Respondent left the IV room, the IV technician noted that a partial bottle

24 of morphine was missing. Respondent later came back to the IV room, after which time

25 the IV technician noticed that the bottle of morphine had reappeared.

26

1 5. The Pharmacy director observed that Respondent's face and neck were
2 flushed and her eyes were half-closed. The Pharmacy director asked Respondent to
3 submit to a "for cause" drug test.

4 6. A December 21, 2006, test on the morphine vial from the IV room showed
5 that the concentration in the vial was 0.3 mg/ml when the concentration should have been
6 15 mg/ml.

7 7. At or about 1:40 p.m. on December 20, 2006, urine was collected from
8 Respondent. Respondent's urine was received at J2 Laboratories in Tucson, Arizona at or
9 about 6:42 p.m. on December 20, 2006. Respondent's urine sample tested positive for
10 benzodiazepines, specifically lorazepam, a Schedule IV controlled substance as defined
11 in ARS s. 36-2515(A)(2). At the time, Respondent had a prescription for lorazepam.
12 Respondent's urine also tested positive for morphine, a controlled substance.

13 8. At or about 3:05 p.m. on December 20, 2006, Respondent provided a saliva
14 sample. Respondent's saliva sample was received at J2 Laboratories at or about 11:02
15 p.m. The drug screen performed on the saliva sample provided by Respondent was
16 negative.

17 ALLEGATIONS OF UNPROFESSIONAL CONDUCT

18 1. The Board possesses jurisdiction over the subject matter and over
19 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

20 2. Pursuant to A.R.S. § 32-1927(A)(1), the Board may discipline a pharmacist
21 who has engaged in unprofessional conduct.

22 3. It is the State's position that Respondent's practice and conduct, as
23 described in the Factual Allegations, constitutes unprofessional conduct pursuant to
24 A.R.S. § 32-1901.01(B)(2) ("Violating any federal or state law, rule or regulation relating
25 to the manufacture or distribution of drugs and devices or the practice of pharmacy.").

1 4. It is the State's position that Respondent's practice and conduct, as
2 described in the Factual Allegations, constitutes unprofessional conduct pursuant to
3 A.R.S. § 32-1901.01(B)(9) ("Working under the influence of alcohol or other drugs.").

4 5. It is the State's position that Respondent's practice and conduct, as
5 described in the Factual Allegations, constitutes unprofessional conduct pursuant to
6 A.R.S. § 32-1901.01(B)(11) ("Knowingly dispensing a drug without a valid prescription
7 order as required pursuant to section 32-1968, subsection A.").

8 6. It is the State's position that Respondent's practice and conduct, as
9 described in the Factual Allegations, as described in the Findings of Fact, constitutes
10 unprofessional conduct, as such conduct constitutes a violation of A.R.S. § 32-1968(A)
11 ("A prescription-only drug shall be dispensed only under one of the following conditions:
12 (i) By a medical practitioner in conformance with A.R.S. § 32-1921; (ii) On a written
13 prescription order bearing the prescribing medical practitioner's manual signature; (iii)
14 On an electronically transmitted prescription order containing the prescribing medical
15 practitioner's electronic or digital signature that is reduced promptly to writing and filed
16 by the pharmacist; (iv) On a written prescription order generated from electronic media
17 containing the prescribing medical practitioner's electronic or manual signature. A
18 prescription order that contains only an electronic signature must be applied to paper that
19 uses security features that will ensure the prescription order is not subject to any form of
20 copying or alteration; (v) On an oral prescription order that is reduced promptly to
21 writing and filed by the pharmacist; (vi) By refilling any written, electronically
22 transmitted or oral prescription order if a refill is authorized by the prescriber either in the
23 original prescription order, by an electronically transmitted refill order that is documented
24 promptly and filed by the pharmacist or by an oral refill order that is documented
25 promptly and filed by the pharmacist.")
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7. It is the State's position that Respondent's practice and conduct, as described in the Factual Allegations constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(8) ("Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.").

8. A person may not knowingly acquire or possess a prescription-only drug unless the person obtains the prescription-only drug pursuant to a valid prescription of a licensed prescriber. A.R.S. § 13-3406(A)(1). Furthermore, a person may not knowingly obtain or procure the administration of a prescription-only drug by fraud, deceit, misrepresentation or subterfuge. A.R.S. § 13-3406(A)(6). In either case, such illegal acquisition, possession or procurement of a prescription-only drug is a class 1 misdemeanor. A.R.S. § 13-3406(B)(1).

9. It is the State's position that Respondent's practice and conduct, as described in the Factual Allegations constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(10) ("Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.")

ORDER

In the interest of settlement, and without admitting the aforementioned Allegations, Respondent hereby consents to the issuance of the following disciplinary Order by the Board:

IT IS HEREBY ORDERED THAT Pharmacist License No. 15072, which was issued to Respondent for the practice of Pharmacy in the State of Arizona, is hereby

1 placed on **SUSPENSION** for a period of not less than three (3) months but not more than
2 one (1) year. The period of suspension shall be determined by the Board after receiving a
3 recommendation from the PAPA Steering Committee. Thereafter, Respondent's license
4 shall be placed on **PROBATION** for a period of at least four (4) years, but not more than
5 four and one-half (4.5) years from the final date of suspension. Respondent's
6 disciplinary period under the suspension and probation shall not exceed five (5) years,
7 unless Respondent affirmatively fails to petition the Board to terminate the probation in
8 accordance with paragraph 10 below.

9 The **SUSPENSION** and **PROBATION** are subject to the following conditions:

10 1. Respondent shall immediately return her pharmacist license to the
11 Board for the period of suspension.

12 2. Respondent shall, within ten days of the effective date of this order,
13 sign a five (5) year contract with PAPA and abide by each and every requirement
14 of the PAPA contract. Failure to sign a PAPA contract or abide by the PAPA
15 contract's terms is a violation of this Order.

16 3. Respondent shall pay all necessary fees and complete all Continuing
17 Education requirements throughout the term of her probation to maintain
18 Pharmacist License No. 15072.

19 4. Respondent shall furnish all pharmacy employers with a copy of this
20 Board Order throughout the term of her probation.

21 5. Respondent shall not serve as a preceptor pharmacist or pharmacist
22 in charge throughout the term of her probation.

23 6. Respondent shall advise the Board immediately of any change in
24 pharmacy employment status throughout the term of her probation.

1 7. Respondent shall furnish the Board with a list of all jurisdictions in
2 which she maintains or has maintained licensure in the profession of pharmacy
3 along with the registration numbers of said licenses.

4 8. Respondent shall obey all federal and state laws and rules governing
5 the practice of pharmacy.

6 9. If Respondent violates this order in any way or fails to fulfill the
7 requirements of this order, the Board, after giving the respondent notice and the
8 opportunity to be heard, may revoke, suspend or take other disciplinary actions
9 against the Respondent's license. The issue at such a hearing will be limited
10 solely to whether this order has been violated.

11 10. Respondent shall appear before the Board at a regularly scheduled
12 Board meeting five years after the effective date of this Order to request that the
13 probation imposed by this order be terminated. Respondent's failure to petition
14 the Board to terminate the probation shall extend the probation period.

15 19th
16 DATED this day of June , 2007.

17 ARIZONA STATE BOARD OF PHARMACY
18

19 (Seal)

20 By:



21 HAL WAND, R.Ph.
22 Executive Director
23
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